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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/553,413	04/20/2000	Dominique Briere	11496-195086	5942

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EXAMINER

DAVIS, ROBERT B

23

ART UNIT PAPER NUMBER

1722

DATE MAILED: 03/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/553,413

Applicant(s)

BRIERE ET AL. 

Examiner

Robert B. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2001.
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 32-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-21 and 34-40 is/are allowed.
- 6) ☒ Claim(s) 32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 21.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Continued Prosecution Application***

1. The request filed on November 8, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/553,413 is acceptable and a CPA has been established. An action on the CPA follows.

***Allowable Subject Matter***

2. The indicated allowability of claims 32 and 33 is withdrawn in view of the reference(s) to Chittenden (3,380,121) and Pearson (3,632,249). Rejections based on the reference(s) follow.

3. Claims 1-21 and 34-40 are allowed over the prior art of record.

4. The following is a statement of reasons for the indication of allowable subject matter: In regards to claim 1, none of the prior art teaches or suggests a shell holder supported by a mold carrier and a shell which is provided with a half-impression of the container to be obtained and which can be removably fastened to its shell holder by quick-fixing means. Chittenden et al disclose a container mold having a shell (inserts 16 and 18) which are fastened to a shell holder (10) by way of clamps (22, 23) such that the inserts can be easily and readily replaced; however, the clamps must be removed by unscrewing screws (24) wherein the clamps must be removed from the holder to allow for exchange of the shell. It is clear that claim 1 is written in means plus function language as the claim recites "which can be removably fastened to its shell holder by quick fixing means". The specification is clear that the "quick fixing means" and the language "which can be removably fastened" is in the form of a retractable locking

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mechanism which is slidable on the holder after loosening of the screw without requiring complete removal of the locking mechanism or the screws. Chittenden et al does not disclose or suggest such a locking mechanism. The newly cited references (D'Agostino 4,714,421, Ruhl 4,472,128, Martin 4,009,979 and Japanese reference 1-60725 U) all disclose locking or clamping means which fix a mold element in a holder. There is no suggestion in the prior art as a whole to combine (D'Agostino, Ruhl, Martin or the Japanese reference -725) with the apparatus of Chittenden to obviate the apparatus claims in this application. Martin and D'Agostino disclose molding apparatus of a completely different kind in comparison to Chittenden et al. Both (Martin and D'Agostino) disclose sliding mold members (22 and 30, respectively) which are locked in holders (18 and 24, respectively) after the sliding mold members are placed in the holder; however, there is no suggestion to modify Chittenden et al as these locking members are located on a surface perpendicular to the parting plane of the molds. Ruhl and the Japanese reference -725 do not disclose or suggest a reason for modifying Chittenden et al to obviate the apparatus claims of this application. Both references (Ruhl and the Japanese reference) disclose locking and clamping mechanisms to fix clamp plates and molds (respectively) onto a platen. Once again, there is no suggestion to use the respective locking and clamping mechanisms on a shell which fits into a holder.

Claims 15, 35, 36 and 39 are allowable over the prior art of record for the reasons above as none of the prior art teaches or suggests a shell holder and a shell forming a substantial portion of the container wherein a selectively retractable or moving

locking member that remains engaged to the shell holder when the locking member is moved out of the locking position.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chittenden et al (3,380,121: figures 1-6; column 1, lines 20-25, column 2, lines 2-5; and column 3, lines 11-37) taken together with Pearson (3,632,249: figures 2, 3, 10 and 11 and column 2, line 52 to column 3, line 45).

Chittenden et al disclose a method of molding a container comprising:  
assembling mold shells (16, 18) which form a substantial portion of the container to be molded into holders (12, 13), engaging a quick-fixing locking mechanism which are

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clamps (22, 23) which are fastened to the holders by means of screws (24), positioning a preheated preform (52) of thermoplastic material into the mold as shown in figure 5, closing the mold assembly (figure 6) and expanding the preheated preform into the mold cavity as shown in figure 6, and extracting the thermoplastic container from the mold (column 4, lines 1-3). The reference does not disclose making connections of heating and/or cooling fluid through internal pipes in the walls of the mold shell holders or mounting of the mold shell holders onto supporting hardware. It is considered inherent to mount the molds for movement, but this is a moot point since the secondary reference clearly shows such a step.

Pearson discloses a container forming mold assembly comprising: mounting mold shell holders (25, 27) onto supports (59, 62) for movement during the molding operations (as shown in figure 2), and making connections (30) of heat exchange supply pipes into pipes (31) in the mold shell holders. The reference clearly states that the inserts (35) allow increased article producing flexibility because the shape of the molding cavity can be changed without removing the shell holders. An operator can merely replace the inserts to form a different article. The reference further states that the cooling pipes are formed in the shell holders so as not to require complicated attachment of the cooling pipes to channels in the replaceable inserts.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the method of Chittenden et al by providing the shell holders with heat exchange pipes and a step of making connections of fluid supplies to the shell holders as disclosed by Pearson for the purpose of allowing quick replacement of the inserts by

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having the fluid transfer pipes in the holder which is not changed when changing the assembly by replacing one set of mold inserts with another set having a different size or shape. It would have been further obvious to mount the shell holders of Chittenden et al to a support for opening and closing as disclosed by Pearson for the purpose of allowing the molding assembly to open and close during production runs.

### ***Reissue Applications***

8. The patent sought to be reissued by this application is involved in litigation. Any documents and/or materials which would be material to the patentability of this reissue application are required to be made of record in reply to this action.

Due to the related litigation status of this application, EXTENSIONS OF TIME UNDER THE PROVISIONS OF 37 CFR 1.136(a) WILL NOT BE PERMITTED DURING THE PROSECUTION OF THIS APPLICATION.

**Please note that a one-month period for response has been given for reply to this office action on the basis of the related litigation.**

9. Applicant is reminded that if any amendments are made to this application a supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome a rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

### **Conclusion**

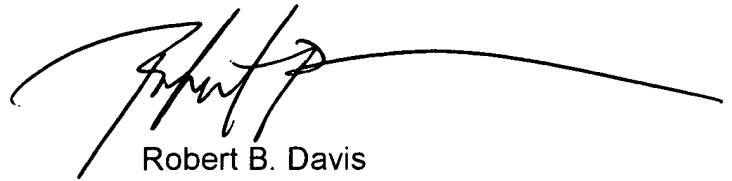
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 703-308-

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2625. The examiner can normally be reached on Monday-Thursday 9:00-6:30 and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 703-308-3322. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Robert B. Davis  
Primary Examiner  
Art Unit 1722

3/16/02

March 16, 2002